

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA**

RAIL SCALE, INC., a Florida corporation,)
)
)
Plaintiff,) Civil Action No. 1:21-cv-287-TAV-CHS
v.)
) JURY TRIAL DEMANDED
WINGFIELD SCALE & MEASURE, LLC,)
a Tennessee limited liability company,)
)
Defendant.)

**RESPONSE TO EXPEDITED MOTION TO MODIFY CLAIM CONSTRUCTION
BRIEFING DEADLINES**

Defendant Wingfield Scale & Measure, LLC¹ responds to Plaintiff Rail Scale, Inc.'s Expedited Motion to Modify Claim Construction Briefing Deadlines (Doc. 64). Plaintiff filed its motion the evening before its opening claim construction brief was due. After filing its motion, Rail Scale nevertheless timely filed a 17-page opening claim construction brief the next day (Doc. 67). Plaintiff's filing of a substantive opening brief by the deadline mooted its motion.

Despite mooting its own motion for additional time, Plaintiff states in its opening claim construction brief that its filing is "without prejudice" to its pending motion for extension and reserves the right to amend or supplement its brief "for the reasons set forth in the motion." (Doc. 67.) To the extent Plaintiff's alleged timing concerns are pertinent to the claim construction briefing, Wingfield will address them in its responsive claim construction brief on March 17, 2023. Suffice it to say, Defendant does not agree that the progress of this case can or should be delayed based on Rail Scale's litigation with another party in an unrelated proceeding. Similarly, the

¹ Wingfield Scale & Measure, LLC contends it is an improperly named party.

meanings of claim terms in the asserted patent in this case should not depend on the posture or arguments advanced by a different defendant, in a different case, in a different court. Defendant therefore objects to any effort by Plaintiff to hold claim construction briefing open because of Plaintiff's alleged need for additional time. Regardless, those issues are not before the Court because Plaintiff has filed its opening brief and mooted its own request for relief.

Defendant respectfully requests that the Court deny Plaintiff's Expedited Motion to Modify as moot and order that the parties proceed under the current briefing schedule set by the Court on January 25, 2023 (Doc. 60).

This 9th day of March, 2023.

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